

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE  
KENT COUNTY COURTHOUSE  
DOVER, DELAWARE 19901  
PHONE: (302) 739-4618**

**CHARLES W. WELCH, III  
JUDGE**

March 3, 2011

Mr. David Jackson Cooke  
2444 Alley Corner Road  
Clayton, DE 19938

RE: State of Delaware v. David Cooke  
Case No.: 1009023763

Decision on Motion to Dismiss Pursuant to Constitutional Right to Travel

Dear Mr. Cooke:

I have carefully reviewed the motions to dismiss that you filed for the above-referenced matter with the court on February 1, 2011. It appears as though the main focus of your motions is a purported violation of your fundamental constitutional right to travel, since most of the charges against you are traffic charges. You contend that Delaware's traffic laws and requirement that operators of motor vehicles possess a driver's license infringe on this right. This contention is not supported by current law. Therefore, your motion must be denied.

In contrast to the right to travel, the right to drive is not a fundamental constitutional right, but, rather a privilege. Whenever a person chooses to operate a motor vehicle in Delaware, he surrenders his individual liberties to the extent necessary for compliance with relevant traffic statutes and ordinances that are necessary for the general welfare of the public. Thus, the revocation of a person's privilege to operate a motor vehicle on public roadways may properly be based on noncompliance with statutory law and such revocation is not an infringement on the revokee's right to travel.

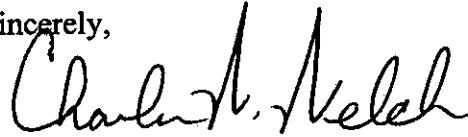
Delaware's enforcement of its traffic laws does not per se violate a motorist's constitutional right to travel because the state legislature has constitutional police power to ensure safe drivers and roadways. The right to travel does not provide an individual a

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right to travel in any manner one wants, free of state regulation. In addition, the right to travel does not give travelers the ability to ignore a state's traffic laws at their discretion. Statutes requiring valid driver's licenses for motorists, vehicle registration and inspection, the use of seatbelts, the imposition of speed limits, and the revocation or suspension of driving privileges have been upheld against numerous challenges that they violate the right to travel. See *Bell v. Burson*, 402 U.S. 535 (1971); *Kaltenbach v. Breaux*, 690 F. Supp. 1551 (W.D. La. 1988); *State v. Downs*, 2001 WL 1127330 (Ohio Ct. App.); *Boutin v. Conway*, 572 A.2d 905 (Vt. 1990). Given this body of law, your motion to dismiss pursuant to your constitutional right to travel must be denied.

**IT IS SO ORDERED.**

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Welch, III". The signature is fluid and cursive, with the first name "Charles" and last name "Welch" being the most prominent parts.

Charles W. Welch, III

CWW:mek

pc: Gregory Babowal, Esq., Deputy Attorney General  
Mark Cutrona, Esq., Deputy Attorney General  
Lindsay Taylor, Esq., Deputy Attorney General